



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF U-C-G-

DATE: APR. 8, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity. *See* Immigration and Nationality Act (the Act) §§ 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner had not established that he suffered direct and proximate harm as a result of qualifying criminal activity such that he qualified as a victim of qualifying criminal activity, and consequently, that he also had not established his eligibility for U nonimmigrant classification under subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. The Director further found that the petition was not approvable because the record established the Petitioner’s inadmissibility and his Form I-192, Application for Advance Permission to Enter as Nonimmigrant, requesting a waiver of the grounds of inadmissibility, had been denied.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that the record demonstrates that he suffered direct and proximate harm as result of the qualifying criminal activity.

Upon *de novo* review, we will dismiss the appeal.

I. APPLICABLE LAW

Section 101(a)(15)(U) of the Act provides, in pertinent part, for U nonimmigrant classification to:

(i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --

- (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
- (II) the alien . . . possesses information concerning criminal activity described in clause (iii);

- (III) the alien . . . has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and
- (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]

....

- (iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: . . . domestic violence; . . . witness tampering; obstruction of justice; . . . or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes[.]

According to the regulation at 8 C.F.R. § 214.14(a)(9), the term “any similar activity” as used in section 101(a)(15)(U)(iii) of the Act “refers to criminal offenses in which the nature and elements of the offenses are *substantially similar* to the statutorily enumerated list of criminal activities.” (Emphasis added).

The eligibility requirements for U nonimmigrant classification are further explicated in the regulation at 8 C.F.R. § 214.14, which states, in pertinent part:

(b) *Eligibility.* An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following . . . :

- (1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. . . ;
- (2) The alien possesses credible and reliable information establishing that he or she has knowledge of the details concerning *the qualifying criminal activity upon which his or her petition is based.* . . . ;
- (3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the *investigation or prosecution of the qualifying criminal activity upon which his or her petition is based.* . . . [.]

(Emphasis added). The regulation at 8 C.F.R. § 214.14(a) further provides the following pertinent definitions relating to U nonimmigrant classification:

- (14) *Victim of qualifying criminal activity* generally means an alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

....

(ii) A petitioner may be considered a victim of witness tampering, obstruction of justice, or perjury, including any attempt, solicitation, or conspiracy to commit one of more of these offenses, if:

(A)The petitioner has been directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice or perjury; and

(B)There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:

(1)To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or

(2)To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

In addition, the regulation at 8 C.F.R. § 214.14(c)(4), prescribes the evidentiary standards and burden of proof in these proceedings:

The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by [U.S. Citizenship and Immigration Services (USCIS)]. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a native and citizen of Mexico, claims to have last entered the United States on December 20, 2004, without admission, inspection, or parole. The Petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status, along with an accompanying Form I-918 Supplement B, U Nonimmigrant Status Certification, and a Form I-192, on November 25, 2013. The Director subsequently issued a request for evidence (RFE), establishing, among other things, that the Petitioner suffered direct and proximate harm as a result of qualifying criminal activity committed

against his sister¹ such that the Petitioner qualified as a victim of qualifying criminal activity and that he suffered substantial physical or mental abuse based on that criminal activity. The Petitioner responded to the RFE with additional evidence, which the Director found insufficient to establish the Petitioner's eligibility.

The Director denied the Form I-918 on April 23, 2015, finding that the Petitioner had not established that he was a victim of qualifying criminal activity, and he therefore also did not meet the remaining statutory criteria for U nonimmigrant classification under subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. The Director further denied the Form I-918 on the basis that the Petitioner's Form I-192, requesting a waiver of his inadmissibility, had been denied after he had been found inadmissible to the United States under sections 212(a)(6)(A)(i) (present without admission or parole); 212(a)(9)(B)(i)(II) (unlawfully present one year or more and seeking admission within 10 years after departure or removal); and 212(a)(9)(C)(i)(I) (unlawfully present for an aggregate period of more than one year and enters or attempts to reenter without being admitted) of the Act. On that same date, the Director denied the Form I-192 on the basis that the Petitioner's Form I-918 had been denied. The Petitioner filed a timely appeal of the denial of his Form I-918 and submits a brief, a new Form I-918 Supplement B, and previously submitted evidence.

III. ANALYSIS

Upon a full review of the record, as supplemented on appeal, we withdraw the Director's decision in part insofar as the Form I-918 was denied because the Petitioner was inadmissible and his Form I-192 had been denied. However, the Petitioner has not overcome the remaining ground for denial. The appeal will be dismissed for the following reasons.

A. Admissibility

Section 212(d)(14) of the Act requires USCIS to determine whether any grounds of inadmissibility exist when adjudicating a Form I-918, and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion. The Petitioner bears the burden of establishing that he or she is admissible to the United States or that any grounds of inadmissibility have been waived. *See* 8 C.F.R. § 214.1(a)(3)(i).

For individuals seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192, in conjunction with a Form I-918, in order to waive any ground of inadmissibility. The regulation at 8 C.F.R. § 212.17(b)(3) states in pertinent part: "There is no appeal of a decision to deny a waiver." As we do not have jurisdiction to review whether the Director properly denied the Form I-192, we do not consider whether approval of the Form I-192 should have been granted.

¹ We note that the record does not contain a birth certificate or other evidence establishing the Petitioner's sibling relationship. In any future filings, such evidence must be submitted to establish the sibling relationship and the Petitioner's eligibility.

The record here indicates that the Petitioner is inadmissible to the United States, and the Petitioner does not contest the grounds of inadmissibility the Director identified. Thus, the Director properly required a Form I-192 to waive the Petitioner's inadmissibility. However, the Director applied impermissible, circular reasoning to deny the Form I-918. The record shows that the Director denied the Form I-918 in part because the Petitioner's Form I-192 had been denied, while simultaneously denying the Form I-192 solely on the basis that the Petitioner's Form I-918 had been denied, without any analysis of the Petitioner's inadmissibility and eligibility for the requested waiver. As this is improper, we withdraw in part the Director's decision insofar as the Form I-918 was denied on the grounds that the Petitioner's I-192 had been denied. Nonetheless, the Form I-918 is not approvable as the present record does not establish the Petitioner's eligibility.

B. Victim of Qualifying Criminal Activity

1. Certified Criminal Activity

The Petitioner submitted a Form I-918 Supplement B signed on August 21, 2013, by [REDACTED] Sheriff, [REDACTED] Sheriff's Office, [REDACTED] North Carolina (certifying official). The certifying official checked the boxes for domestic violence, obstruction of justice, witness tampering, and related crimes in Part 3.1 of the certification, which inquires about the criminal activities of which the Petitioner was a victim. The Form I-918 Supplement B indicated that the criminal activity took place on [REDACTED], 2009, and at Part 3.3, the certifying official cited to section 14-226 of the North Carolina General Statutes (N.C. Gen. Stat.), corresponding to the offense of intimidating or interfering with witnesses,² as the relevant criminal statute for the criminal activity that was investigated or prosecuted. At Part 3.5, which asks for a description of the criminal activity being investigated, the certifying official stated that the Petitioner's sister was physically and sexually abused by her husband for years and that when the Petitioner's sister pressed charges against her husband, the latter threatened her and the Petitioner, who were important witnesses, causing the Petitioner's sister to drop the charges.

2. The Petitioner Is Not a Victim of Qualifying Criminal Activity

Pursuant to the regulation at 8 C.F.R. § 214.14(a)(14), a "victim of qualifying criminal activity" is defined as an alien who is directly or proximately harmed by the commission of qualifying criminal activity. *See also* 8 C.F.R. § 214.14(a)(14)(ii) (requiring a petitioner to establish, amongst other additional requirements, that he or she was directly or proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury in order to be considered a victim of those offenses).

² Our review further indicates that the offense of intimidating or interfering with witnesses, which falls within Article 30 of the N.C. Gen. Stat. titled "Obstructing Justice," is substantially similar to the qualifying criminal activities of obstruction of justice and witness tampering. 8 C.F.R. § 214.14(a)(9). We are also satisfied that the cited North Carolina offense related to a domestic violence offense, also a qualifying crime, albeit against the Petitioner's sister.

Upon *de novo* review, the record does not demonstrate that the Petitioner suffered direct or proximate harm as a result of the commission of the qualifying criminal activity, and, consequently, he does not qualify under the general definition of the term “victim of qualifying criminal activity” under 8 C.F.R. § 214.14(a)(14). The regulatory definition of victim was drawn in large part from the Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines). See *U Nonimmigrant Status Interim Rule*, 72 Fed. Reg. 53014, 53016 (Sept. 17, 2007) (citing the AG Guidelines as an informative resource in the rule’s definition of victim). The AG Guidelines clarify that “direct and proximate harm” means that “the harm must generally be a ‘but for’ consequence of the conduct that constitutes the crime” and that the “harm must have been a reasonably foreseeable result” of the crime. *Attorney General Guidelines for Victim and Witness Assistance*, 2011 Edition at 8-9 (Rev. May 2012). In assessing harm to the victim, the AG Guidelines further explain that in “the absence of physical . . . harm, emotional harm may be presumed in violent crime cases where the individual was *actually present during a crime of violence*.” *Id.* at 9 (emphasis added). The AG Guidelines specifically indicate “that individuals whose injuries arise only indirectly from an offense are not generally entitled to rights or services as victims[,] but [the AG Guidelines] provide [] discretion to treat as victims bystanders who suffer unusually direct injuries as victims.” See *U Nonimmigrant Status Interim Rule*, *supra*, at 53016 (citing the AG Guidelines). Thus, even bystanders to a qualifying criminal activity must demonstrate “unusually direct injuries” to qualify as a victim of qualifying criminal activity.

The record below, including a police incident report, several arrest warrants, and other court related documents, shows that the certifying agency detected³ and investigated several criminal offenses committed against the Petitioner’s sister by the latter’s husband,⁴ [REDACTED] on [REDACTED] 2009 and/or [REDACTED] 2009.⁵ These offenses include rape, assault on a female, communicating threats, and kidnapping, as well as intimidating or interfering with witnesses, which was certified on the Form I-918 Supplement B. However, a review of the criminal records does not establish that the Petitioner was a bystander present when these offenses were committed against his sister or that he suffered unusually direct injuries. Although the certifying official indicated at Part 3.5 of the Form I-918 Supplement B that [REDACTED] threatened the Petitioner and his sister in order to coerce the Petitioner’s sister into dropping criminal charges, there is no indication that the threats were made directly to the Petitioner in person during the commission of the certified criminal activity. The Petitioner’s own written statements below also did not indicate that he was present when [REDACTED]

³ The term “investigation or prosecution,” as used in section 101(a)(15)(U) of the Act, also refers to the “detection” of a qualifying crime or criminal activity.” 8 C.F.R. § 214.14(a)(5).

⁴ For purposes of this decision, we will refer to [REDACTED] as the Petitioner’s sister’s husband, although the police report indicates that the Petitioner’s sister referred to the perpetrator as her former boyfriend. The record does not contain a marriage certificate for the Petitioner’s sister and [REDACTED]

⁵ The police report indicates that the Petitioner’s sister filed a police report on [REDACTED] 2009, stating that several of the offenses occurred on [REDACTED] 2009. However, subsequent arrest warrants, as well as the Form I-918 Supplement B, indicated that the certified offenses were committed on [REDACTED] 2009. An updated form I-918 Supplement B on appeal lists both [REDACTED] 2009, and [REDACTED] 2009 as the dates when the certified criminal activity occurred. The Petitioner’s statements do not clarify or explain the discrepancies in the dates.

(b)(6)

Matter of U-C-G-

committed the certified criminal activity on 2009, or , 2009. As the Petitioner has not demonstrated that he was present when the qualifying criminal activity occurred, the extreme emotional or mental harm he contends he suffered as a result of the qualifying criminal activities (of which his sister was the direct victim) is insufficient to establish that he was directly or proximately harmed. Such harm is the indirect and natural result of a family member being subjected to violence, and does not equate to or fall within the meaning of “direct and proximate harm” under 8 C.F.R. § 214.14(a)(14) to qualify the Petitioner as a victim of qualifying criminal activity. In addition, even if the Petitioner was a bystander, the Petitioner’s statements below did not provide a probative account of the certified criminal activity or the harm he suffered as a result of such activity, and is consequently insufficient in establishing that he suffered unusually direct injuries.

Additionally, the Petitioner’s statements below and the certifying official on the Form I-918 Supplement B indicated that the Petitioner suffered extreme emotional harm and mental trauma as a result of the *ongoing* threats to his own life. However, although we recognize that the perpetrator may have threatened and caused the Petitioner harm on various other occasions, the Petitioner is required to show that he suffered direct and proximate harm as a result of qualifying criminal activity that was actually certified on a Form I-918 Supplement B. Here, the record as a whole shows that the only certified qualifying criminal activity, which served as the basis for the instant Form I-918, was committed against the Petitioner’s sister on 2009, or 2009, and does not establish that the Petitioner was present during the commission of such activity or that he was directly threatened on these dates. *See generally* 8 C.F.R. § 214.14(b)(2) and (3) (stating that a petitioner must possess information concerning, and be helpful in the investigation and prosecution of, qualifying criminal activity *upon which* the Form I-918 is based).

On appeal, the Petitioner asserts again that he was the direct victim of the qualifying criminal activities of obstruction of justice and witness tampering⁶ because he himself was directly and repeatedly threatened with death by to keep the Petitioner from testifying against him. He maintains that he was a bystander to qualifying criminal activity and was not merely “watching” as made the threats, but rather was the direct recipient of such threats. The Petitioner further contends that the certifying agency’s failure to prepare a separate police report listing him as a victim is not dispositive and that the police report identifying his sister as the victim encompassed criminal activity committed against both himself and his sister, noting that the report referenced a threat was made against him. However, as discussed, the evidence does not establish

⁶ On appeal, the Petitioner submits a new Form I-918 Supplement B, which removed domestic violence from Part 3.1 as one of the qualifying criminal offenses of which he was a victim but added, at Part 3.3, the offense of communicating threats under N.C. Gen. Stat. § 14-277.1 as one of the state offenses that the certifying agency investigated and/or prosecuted. As an initial matter, pursuant to the regulation at 8 C.F.R. § 214.14(c)(2)(i), a Form I-918 Supplement B, “signed by a certifying official within the six months immediately preceding the filing of Form I-918,” must be filed as initial evidence with the Form I-918. The Form I-918 Supplement B submitted on appeal here, signed on May 20, 2015, does not conform to this regulatory requirement because it was not executed within the six month period immediately preceding the November 25, 2013, filing date of the Form I-918. Further, even if we accepted the new Form I-918 Supplement B on appeal, the Petitioner does not assert, and the record does not show, that communicating threats is a qualifying criminal activity or substantially similar to one.

(b)(6)

Matter of U-C-G-

that the Petitioner was present as a bystander or received threats to his life in person when the certified criminal activities occurred on [REDACTED] 2009, or [REDACTED] 2009. Neither the police report nor the other criminal documents in the record relating to the certified criminal activity places the Petitioner at the scene or the time of such activity; shows that any threats were made against the Petitioner directly or in person at the time of the criminal activity; or otherwise indicates that a qualifying criminal activity was detected or investigated as having been committed against the Petitioner during that incident.

The Petitioner also contends that apart from the dates when the certified criminal activities occurred, there were several other occasions when [REDACTED] threatened him directly, including an incident on [REDACTED] 2009, when the Petitioner was forced to call the police for assistance.⁷ The Petitioner contends that the threats made against him establish that he is a direct victim. As we noted earlier, we recognize that the ongoing threats and disturbing events the Petitioner described facing may very well have occurred. However, the Petitioner is required to establish that the certifying agency or another law enforcement entity detected, investigated, or prosecuted the qualifying criminal activity committed against him and that such activity was certified on the Form I-918 Supplement B and is the basis of the Form I-918. *See generally* 8 C.F.R. §§ 214.14(b)(2) and (3), 214.14(c)(2)(i). Here, the certifying official only certified qualifying criminal activity committed on [REDACTED], 2009, or [REDACTED] 2009, which was the basis of the instant Form I-918. He did not certify qualifying criminal activity committed against the Petitioner on the other occasions that the Petitioner claims to have been threatened.

The Petitioner further asserts on appeal that he qualifies as an *indirect* victim of qualifying criminal activity because [REDACTED] relayed death threats against him through the Petitioner's sister to keep him from testifying against [REDACTED] as reported in the police report. The Petitioner is mistaken. The regulation at 8 C.F.R. § 214.14(a)(14)(i) allows certain family members to qualify as "indirect" victims of qualifying criminal activity. Specifically, parents and unmarried siblings under 18 years of age of a direct victim who is under 21 years of age will also be considered victims of qualifying criminal activity if the direct victim is incompetent, incapacitated, or deceased due to murder or manslaughter. 8 C.F.R. § 214.14(a)(14)(i). This provision is inapplicable here because, although the Petitioner is the sibling of the direct victim, he was [REDACTED] years old and not under the age of 18, and his sibling was not under the age of 21, when the qualifying criminal activity occurred. The Petitioner must therefore demonstrate that he qualifies as a victim of qualifying criminal activity under the general definition of that term under 8 C.F.R. § 214.14(a)(14), by showing that he was directly or proximately harmed as a result of the qualifying crimes committed against his sister. As discussed, the Petitioner has not established that he was directly or proximately harmed as a result of the qualifying criminal activity.

⁷ The Petitioner submits a call log for a 911 call made from [REDACTED] address. However, this relates to an incident on [REDACTED] 2009, while the Petitioner claims to have made the 911 call on [REDACTED] 2009. Moreover, although the call log includes the term "brother," the record indicates that the Petitioner and his sister have another brother, and the call report, which indicates the disposition as "false alarm," does not identify the Petitioner's sister or the Petitioner as the victim.

The Petitioner also asserts on appeal that the Director erred in not relying on the certifying official's judgment and affirmation on the Form I-918 Supplement B that the Petitioner was a victim of qualifying criminal activity. However, the regulation at 8 C.F.R. § 214.14(c)(4) provides USCIS with the authority to determine, in its sole discretion, the evidentiary value of the evidence, including the Form I-918 Supplement B. Here, although the certifying official certified the Petitioner as a victim of qualifying criminal activity, as previously discussed, the record as a whole indicated that the direct victim of the qualifying crimes here was the Petitioner's sister and that the Petitioner was not present during the commission of the offenses. Consequently, the certification of the Petitioner as a victim of the qualifying crimes by the certifying official is insufficient to demonstrate that the Petitioner is the direct victim of qualifying criminal activity.

In sum, individuals indirectly harmed as a result of a qualifying crime generally do not qualify as a victim, and even an individual who is present as a bystander during the commission of the crime against the direct victim must demonstrate unusually direct injuries to also qualify as a "victim." *See U Nonimmigrant Status Interim Rule, supra*, at 53016 (noting that the AG Guidelines provide discretion to treat bystanders as victims where they suffer unusually direct injuries as victims). Here, the record does not establish that the Petitioner was present during the commission of the certified criminal activity on [REDACTED] 2009, or [REDACTED] 2009, or that the harm he suffered constituted "unusually direct injuries" beyond those naturally occurring when a loved one is subjected to abuse and violence. Accordingly, the Petitioner has not demonstrated that he was directly and proximately harmed as a result of the commission of qualifying criminal activity such that he qualifies as a victim of qualifying criminal activity as defined at 8 C.F.R. § 214.14(a)(14).

C. Substantial Physical or Mental Abuse

On appeal, the Petitioner asserts that the Director erred in finding that the Petitioner had not suffered substantial physical or mental abuse where the perpetrator raped his sister and threatened both the Petitioner and his sister in order to prevent them from testifying against the perpetrator. The Petitioner contends that his victim statement was credible, probative, and relevant evidence of the incredible emotional suffering he suffered for years as a result of the ongoing criminal activity against his sister. Contrary to his assertions on appeal, apart from asserting generally that he suffered extreme mental harm and that he lived in constant fear, in his two written statements below, the Petitioner did not provide probative details about the mental harm he suffered as a result of the qualifying criminal activity against his sister, nor did he describe how the criminal activity has impacted and continues to impact the Petitioner's daily life and overall well-being. Regardless, as the Petitioner has not established that he was the victim of qualifying criminal activity, he necessarily has also not established that he suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity, as required by section 101(a)(15)(U)(i)(I) of the Act.

D. Possession of Information Concerning Qualifying Criminal Activity

As the Petitioner did not establish that he was the victim of qualifying criminal activity, he has also not established that he possesses credible or reliable information establishing knowledge concerning details of the qualifying criminal activity, as required by section 101(a)(15)(U)(i)(II) of the Act.

E. Helpfulness to Authorities Investigating or Prosecuting the Qualifying Criminal Activity

On appeal, the Petitioner asserts that he was helpful to the authorities and submits an updated Form I-918 Supplement B, indicating at Part 3.5 that the Petitioner assisted in the detection of the crimes committed against both the Petitioner and his sister. However, as the Petitioner did not establish that he was the victim of qualifying criminal activity, he necessarily has also not established that he has been, is being or is likely to be helpful to a federal, state, or local law enforcement official, prosecutor, federal or state judge or other federal, state or local authorities investigating or prosecuting qualifying criminal activity, as required by subsection 101(a)(15)(U)(i)(III) of the Act.

IV. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361; *see also Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of U-C-G-*, ID# 16124 (AAO Apr. 8, 2016)